

Remarks

Applicant respectfully requests consideration of the instant application in view of the above amendments and the following remarks.

Claim Status

Claims **1-54** are pending in the application, and are now subject to a requirement for restriction.

Claim Amendments

Independent claims **1, 7, 24** and **35** have each been amended to be dependent upon independent claim **12**. These amendments are made without prejudice to the original formulation of these claims, which Applicant respectfully reserves the right to pursue in one or more divisional applications.

Claim **12** has been amended to add a period at the end of the claim.

Claims **1** and **7** have also been amended at line 1 to replace “hybrid vehicle incorporates” with “power generator comprises”, at line 2 to insert “further” after “method”.

Claim **1** has also been amended at line 3 to insert “at least a portion of” before “said heat”, so as to clarify that not all of the heat energy is necessarily stored in the recuperator.

The preambles of claims **24-34** have each been amended at line 1 to replace “determining a likely destination of a vehicle” with “controlling a hybrid electric vehicle”.

Claim **24** has also been amended at line 1 to insert “further” before “comprising”, to delete line 2, and to insert “, and said destination associated with said amount of energy comprises either said first destination or said second destination” at the end of the claim.

Claim **35** has also been amended at line 1 to insert “further” before “comprising”.

Claim **47** has been amended at the second and third lines of element f thereof to replace “at least one previous driving pattern” with “a destination”, to delete the following limitation on lines 3-6 of element f thereof:

“based upon corresponding previously generated information from said vehicle location sensor, and said stored program is adapted to evaluate said at least one measure of location in view of said information related to a previous driving pattern of said vehicle”,

and to replace this deleted limitation with the following:

--, and said stored program provides for:

- i. determining a measure responsive or related to an amount of energy required for said vehicle to reach said destination, wherein said measure is responsive to said at least one measure of location of said vehicle in relation to said destination;
- ii. at least reducing the power generated by said power generator responsive to said measure in advance of said vehicle reaching said destination; and
- iii. continuing travel of said vehicle to said destination using said traction motor powered at least by said energy storage device--,

wherein newly added elements **i-iii** of claim **47** correspond to elements **b-d** of claim **12**. Accordingly, as presently amended, Applicant respectfully submits that claim **47** is an apparatus claim that now corresponds to method claim **12**, and should be grouped therewith for purposes of restriction.

Claim **55** has been added, dependent upon claim **47**, incorporating the above limitation that had been deleted from claim **47**.

Claim **48** had been amended to depend upon claim **55**.

Applicant respectfully submits that no new matter has been added by this amendment.

Restriction

In response to the requirement for restriction under **35 U.S.C. § 121**, the invention of **Group I, Subgroup C** is provisionally elected with traverse. Claims **1-55** as presently amended are readable upon the elected invention.

Applicant respectfully submits that restriction between **Subgroups A and B of Group I** is improper for the following reasons:

The Examiner contends that original claims **1-6** of **Subgroup A** should be classified in class 701, subclass 99, and that original claims **7-11** of **Subgroup B** should be classified in class 701, subclass 29. From the Classification Definitions, subclass 29 is defined as “[v]ehicle control, guidance, operation, or indication wherein the electrical data processing system or calculating computer is designed to evaluate, monitor, or indicate the performance, operating condition, or servicing need of a vehicle” [emphasis added], whereas subclass 99 is defined as “[v]ehicle control, guidance, operation, or indication wherein the data processing system or calculating computer controls, indicates, or monitors the prime mover of the vehicle” [emphasis added], wherein these subclasses are distinguished from one another by the above emphasized portions of their definitions. The bodies of each of original claims **1** and **7** pertain to the prime mover, rather than to the vehicle as a whole. Accordingly, to the extent that claims **1-6** are classified in subclass 99, Applicant respectfully submits that so too should original claims **7-11** be so classified. Accordingly, with original claims **1-11** classified together in one class/subclass, Applicant respectfully submits that the Examiner has not established reasons under **MPEP § 808.02** for insisting upon restriction.

Applicant further respectfully submits that restriction between **Subgroups D** and **E** of **Group II** is improper for the following reasons:

The Examiner contends that original claims **24-34** of **Subgroup D** should be classified in class 701, subclass 200, and that original claims **35-54** of **Subgroup B** should be classified in class 701, subclass 205. From the Classification Definitions, subclass 200 is defined as “[s]ubject matter wherein the electrical data processing system or calculating computer functions to determine a course, position, or distance traveled.” [emphasis added; original emphasis deleted], whereas subclass 205 is defined as “[n]avigation system wherein the data processing system or calculating computer functions to determine the deviation of a present position from a desired position in a direction parallel to or perpendicular to the course” [emphasis added], wherein these subclasses are distinguished from one another by the above emphasized portions of their definitions. Applicant respectfully submits that claims **35-54** are better classified under subclass 200, because they also pertain to the determination of a course, position, or distance traveled, and the control of a hybrid electric vehicle responsive thereto. The body of claim **35**

pertains to the determination or anticipation of a course of travel covered by subclass 200, rather than a perturbation relative to a desired position, as would appear to be covered by subclass 205. Accordingly, to the extent that original claims **24-34** are classified in subclass 200, Applicant respectfully submits that so too should original claims **35-54** be so classified. Accordingly, with claims 1-11 classified together in one class/subclass, Applicant respectfully submits that the Examiner has not established reasons under **MPEP § 808.02** for insisting upon restriction.

Accordingly, Applicant respectfully traverses the Examiner's argument that there is a basis for restriction between **Subgroups A** and **B**, and between **Subgroups D** and **E**, because of separate classification. Applicant respectfully submits that there would be no serious search burden to examine all of the claims of **Subgroups A** and **B** together, or to examine all the claims of **Subgroups D** and **E** together, in separate respective divisional applications, because they could and should share respective common classifications. Applicant respectfully submits that the Examiner has not established reasons under **MPEP § 808.02** for insisting upon these restrictions. In view of the foregoing, Applicant respectfully requests that the requirement for restriction between **Subgroups A** and **B** be withdrawn upon reconsideration, and that the requirement for restriction between **Subgroups D** and **E** be withdrawn upon reconsideration.

Interview Summary

On 19 July 2007, the undersigned telephoned the Examiner to discuss the requirement of restriction as applied to claims 1-11 and 24-24, and to request that for purposes of future prosecution, that on the basis of respective common classifications, that claims 1-11 be grouped together in one group, and that claims 24-54 be grouped together in a separate group, respectively. The Examiner declined to accede to this request over the phone, but indicated that she would consider this further in response to a formal response to the requirement for restriction.

Payment of Fees Under 37 CFR §§ 1.16(i); Authorization to Charge Fee Deficiencies

This Amendment adds one (1) dependent claim, bringing the total number of claims to fifty-five (55), resulting in one excess claim for which a fee of **\$50** is due under 37 C.F.R. § 1.16(i). A credit card payment form in the amount of **\$50** is enclosed herewith for payment of the fees under 37 C.F.R. § 1.16(i). The Commissioner is authorized to charge any deficiencies or credit any overpayments – that cannot otherwise be made to the credit card -- to Deposit Account 04-1131.

Summary and Conclusions

The claims have been amended so that all method claims now depend upon claim **12** of **Group I, Subgroup C**. Independent claim **47** has been amended so as to now be **Group 1, Subgroup C**. Claim **55** has been added to incorporate limitations deleted from claim **47**. Applicant respectfully submits that the present requirement for restriction between original claims **1-11** and original claims **24-54** should be withdrawn in view of their incorporation in one or more prospective future divisional applications.

Respectfully Submitted,

/Kurt L. VanVoorhies, Ph.D., P.E./ #38,643

Raggio & Dinnin, P.C.
2701 Cambridge Court, Suite 410
Auburn Hills, MI 48326
5704-00209
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Kurt L. VanVoorhies
Registration No. 38,643
Phone: 248-364-2100
Facsimile: 248-364-2200